UNITED
NATIONS

Framework Convention on
Climate Change

Distr.
GENERAL

FCCC/CP/1996/6/Add.1
20 June 1996

Original: ENGLISH

CONFERENCE OF THE PARTIES
Second Session
Geneva, 8 - 19 July 1996
Item 8 (a) of the provisional agenda

ADMINISTRATIVE AND FINANCIAL MATTERS

ESTABLISHMENT OF THE PERMANENT SECRETARIAT AND ARRANGEMENTS FOR ITS FUNCTIONING

Addendum

LEGAL ARRANGEMENTS FOR THE EFFECTIVE DISCHARGE OF THE FUNCTIONS OF THE CONVENTION SECRETARIAT IN THE FEDERAL REPUBLIC OF GERMANY

Note by the secretariat

1. At its second session held in Geneva, from 26 February to 8 March, the Subsidiary Body for Implementation (SBI) had before it a document entitled "Institutional and budgetary matters: arrangements for relocation of the Convention secretariat to Bonn" (FCCC/SBI/1996/7). This document dealt, inter alia, with legal arrangements for the effective discharge of the functions of the Convention secretariat in Germany, and conveyed advice to the Executive Secretary on this matter from the United Nations Office of Legal Affairs. This advice was explained to the SBI by a representative of that Office.

2. Having taken note of the information contained in that note regarding, inter alia, the said legal arrangements and the advice of the Office of Legal Affairs thereon and having recalled the institutional linkage of the Convention secretariat to the United Nations (decision 14/CP.1, paragraph 2), the SBI further concluded as follows:

"The SBI:

" ...

"Bearing in mind the exceptional circumstances and the urgency of concluding the legal arrangements arising from the location of the secretariat in Germany, requested the Executive Secretary after consulting its Chairman and Officers to enter into an appropriate agreement required for the effective discharge of the secretariat's functions in the Federal Republic of Germany, that applies to the Convention secretariat, mutatis mutandis, the terms of the Agreement signed on 10 November 1995 by the United Nations and the Federal Republic of Germany regarding the Headquarters of the United Nations Volunteers Programme. With a view to enabling the secretariat to effectively discharge its functions under the Convention, such an agreement should, in particular, reflect the following:

"(i) The Convention secretariat should possess in the host country such legal capacity as is necessary for the effective discharge of its functions under the Convention, in particular to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings;

"(ii) The Convention secretariat should enjoy in the territory of the host country such privileges and immunities as are necessary for the effective discharge of its functions under the Convention;

"(iii) "The representatives of the Parties and Observer States to the Convention as well as the officials of the Convention secretariat should similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions under the Convention;"

"Noted that the agreement should be subject to approval by the COP at its second session;

"Noted also that the Executive Secretary intends to conclude arrangements with the United Nations Development Programme (UNDP) for the management, use and servicing of the common United Nations premises in Bonn" (FCCC/SBI/1996/9, para. 66 (c), (d) and (e)).

3. The Agreement of 10 November 1995 concerning the Headquarters of the United Nations Volunteers Programme (UNV), cited in the conclusions of the SBI, provides that it "may also be made applicable, mutatis mutandis, to other intergovernmental entities, institutionally linked to the United Nations, by agreement among such entities, the Government [of the Federal Republic of Germany] and the United Nations" (Article 4, paragraph 3). Accordingly, the Executive Secretary has held discussions with the United Nations and the Government of the Federal Republic of Germany in order to draw up an appropriate agreement among the three Parties involved, namely, the United Nations, the Government and the Convention secretariat, concerning the headquarters of the Convention secretariat. The Executive Secretary has consulted the Chairman and Officers of the SBI in

the course of these discussions. As a result, an appropriate tripartite agreement has been prepared for signature on 20 June 1996, on the occasion of the inauguration of the United Nations premises in Bonn, in which the Convention secretariat will be accommodated.

4. The said agreement will extend to the Convention secretariat the general provisions of the Agreement of 10 November 1995 concerning the Headquarters of the UNV and the Exchange of Notes of the same date between the Administrator of the United Nations Development Programme and the Permanent Representative of Germany to the United Nations. These include provisions pertaining to the privileges and immunities of the Convention secretariat and of its officials. The tripartite agreement will also provide for the privileges and immunities of representatives attending meetings of the Convention, as well as for the Convention secretariat to possess the necessary legal capacity in the host country.

5. The tripartite agreement, the Agreement of 10 November 1995 concerning the Headquarters of the UNV and the related Exchange of Notes will be contained in document FCCC/CP/1996/MISC.1 (English only).

6. The COP is invited to adopt an appropriate decision that will:

(a) Confirm the conclusions of the SBI at its second session, cited in paragraph 2 above, regarding legal arrangements for the effective discharge of the functions of the Convention secretariat in Germany, and

(b) In accordance with those conclusions, express its approval of the agreement between the United Nations, the Government of the Federal Republic of Germany and the secretariat of the United Nations Framework Convention on Climate Change concerning the Headquarters of the Convention secretariat.